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EXAMINER

ROANE, AARON F

ART UNIT	PAPER NUMBER
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3769

NOTIFICATION DATE	DELIVERY MODE
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11/28/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: RICKY W. PURCELL and JEFFREY E. FISH

Application No. 10/648,590
Technology Center 3700

Mailed: November 26, 2008

Before KRISTA ZELE *Deputy Chief Appeals Administrator*

ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed June 7, 2007 reveals that Claim 10 is dependent upon Claim 9 which was previously cancelled by Appellant in their amendment filed on January 27, 2006. It is unclear what the proper dependency is of Claim 10. Appropriate correction is required.

The Examiner should refer the Appellant to the *Manual of Patent Examining Procedure* (MPEP) § 1206 (8th ed. Rev. 6, Sept 2007) for discussion on filing an amendment to Claim 10.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- (1) to hold the Appeal Brief filed on June 7, 2007 defective;
- (2) refer the Appellant to the *Manual of Patent Examining Procedure* (MPEP) § 1206 (8th ed. Rev. 6, Sept 2007) for guidance on filing a proper amendment to Claim 10;
- (3) to respond to any amendment as may be filed to correct defective claim 10; and
- (4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Application No. 10/648,590

KZ/SJB

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